IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

**O R D E R**

M/s. Jamini Distilleries (Goa) Pvt. Ltd. Versus State of Rajasthan

S.B. Criminal Misc. Petition No. 560/2006
against the order dated 22-3-2006 passed
by the Additional Sessions Judge No.1,
Chittorgarh,in Criminal Revision No.15/2006.

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Date of Order: August 18, 2006

**PRESENT**

**HON'BLE MR. JUSTICE H.R. PANWAR**

Mr. R.K. Charan, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

**BY THE COURT:**

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has assailed the order dated 22-3-2006 passed by the Additional Sessions Judge No.1, Chittorgarh (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 15/2006, whereby the Revisional Court dismissed the revision petition filed by the petitioner against the order dated 4-1-2006 passed by the Additional Judicial Magistrate, Chittorgarh (for short, "the trial Court" hereinafter) in Criminal Case No. 202/2005, whereby the trial Court dismissed the application filed by the petitioner under Section

457 of the Code for releasing the liquor on Supurdginama to the petitioner.

I have heard learned counsel for the parties and perused the orders passed by the Revisional Court as well as the trial Court.

On 2-7-2005, the police stopped truck No. RJ.02G-7856 carrying 810 cartons of beer. For 600 cartons of beer, the permit was valid upto 1-7-2005 and for 210 cartons of beer, the permit was valid upto 27-6-2006, thus, on the date of seizure, there was no valid permit for the said liquor and consequently, a case under Section 19/54 of the Rajasthan Excise Act was registered.

As per Condition No. 7.3 of the Condition of Permit for Wholesale and Retail Sell of Liquor, 1982 (for short, "the Conditions of Permit" hereinafter) , after expiry of the term of the permit or cancellation of the permit, the permit-holder has to immediately give information regarding the stock and the whole record to the concerned Excise Inspector. All the record is required to be deposited immediately in the office of the Excise Inspector and the disposal of the remaining stock is to be made as per the order of the Excise Officer. Till disposal, the remaining stock shall be kept at such a place under the joint possession of the Excise Inspector and the then permit-holder where the business was being carried on and till disposal, the

rent, electricity charges and other expenses will be borne by the then permit-holder.

In Sunderbhai Ambalal Desai Vs. State of Gujarat, 2003 Cr.L.R. (SC) 103, the Hon'ble Supreme Court held as under:-

> "For articles such as seized liquor also, prompt action should be taken in disposing it of after preparing necessary Panchnama. If sample is required to be taken, sample may kept properly after sending it to the chemical analyser, if required. But in no case, large quantity of liquor should be stored at the police station. No purpose is served by such storing."

In an identical case, a coordinate Bench of this Court in Khima Ram Vs. State of Rajasthan, S.B. Criminal Miscellaneous Petition NO. 414/2005 decided on 31-5-2005, held that the permit was in the name of the petitioner therein and whether there was violation of the terms and conditions of the permit, that can be decided only at the final stage and as such keeping the seized liquor either at the police station or in the Excise Department would result in damaging the same and as such its custody should be given on Supurdginama.

In the instant case, the petitioner was a permit-holder but at the time of seizure of liquor on 2-7-2005, the permit period for 600 cartons of liquor was upto 1-7-2005 and for the remaining 210, the permit period expired on 27-6-2005. As per the condition No. 7.3 of the Conditions of Permit, the

petitioner was under an obligation to deposit the remaining liquor and whole of the record with the Excise Inspector and the disposal of the remaining liquor could be made as per the directions of the District Excise Officer. Whether there is violation of the said condition or not, it can be decided at the time of final decision of the case. Therefore, no useful purpose will be served in allowing 810 cartons of liquor to be kept at the police station because it will damage the huge quantity of beer causing great loss to the petitioner.

In this view of the matter, the criminal miscellaenous petition is allowed. The impugned order dated 22-3-2006 passed by the Revisional Court, as also the order dated 4-1-2006 passed by the trial Court, are set aside and it is directed that the aforesaid 810 cartons of beer be given to the petitioner on Supurdginama, provided he furnished a personal bond in the sum of Rs.50,000/- to the satisfaction of the trial Court with the stipulation therein that after taking the liquor on Supurdginama, if the period of permit has expired, he will deposit the same, along with the whole record, with the Excise Inspector and the Excise Department may dispose of the same in accordance with law after obtaining permission from the trial Court.

(H.R. PANWAR), J.

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